

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Jason Lee Van Dyke,

Plaintiff,

v.

CASE NO. 4:15-cv-00418

Equifax, Inc., Experian Information
Solutions, Inc., Discover Financial Services,
Citibank N.A., Cash Central of Texas L.L.C.
d/b/a/ Speedy Cash, Comenity Credit L.L.C.
d/b/a Comenity Capital Bank and PayPal
Credit, Capital One N.A. d/b/a Capital One
Bank USA, Citizens Bank N.A., and TRS
Recovery Services Inc.,

Defendants.

ANSWER AND DEFENSES

NOW COMES defendant Experian Information Solutions, Inc., (“Experian”), by its undersigned counsel, and in answer to the Original Petition (“Complaint”), states as follows:

I. DISCOVERY CONTROL PLAN

1.1 In response to paragraph 1.1 of the Complaint, Experian admits that Plaintiff purports to seek recovery of monetary damages less than \$200,000.00 and injunctive relief. Except as specifically admitted, Experian denies, generally and specifically, each and every remaining allegation of paragraph 1 of the Complaint.

II. PARTIES, JURISDICTION, AND VENUE

2.1 In response to paragraph 2.1 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

- 2.2 In response to paragraph 2.2 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 2.3 In response to paragraph 2.3 of the Complaint, Experian admits the allegations contained therein.
- 2.4 In response to paragraph 2.4 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 2.5 In response to paragraph 2.5 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 2.6 In response to paragraph 2.6 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 2.7 In response to paragraph 2.7 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

- 2.8 In response to paragraph 2.8 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 2.9 In response to paragraph 2.9 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 2.10 In response to paragraph 2.10 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 2.11 In response to paragraph 2.10 [sic] of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 2.12 In response to paragraph 2.11 of the Complaint, Experian admits that Plaintiff has alleged that jurisdiction and venue are appropriate in Denton County Court. Experian states that this is a legal conclusion that is not subject to denial or admission. Experian further admits that it is qualified to do business and does conduct business in the State of Texas. Except as specifically admitted, Experian denies, generally and specifically, each and every remaining allegation of paragraph 2.11 of the Complaint.

III. FACTS

- 3.1 In response to paragraph 3.1 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 3.2 In response to paragraph 3.2 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 3.3 In response to paragraph 3.3 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 3.4 In response to paragraph 3.4 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 3.5 In response to paragraph 3.5 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 3.6 In response to paragraph 3.6 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein

and, on that basis, denies, generally and specifically, each and every allegation contained therein.

- 3.7 In response to Paragraph 3.7 of the complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 3.7 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 3.7 of the Complaint.
- 3.8 In response to paragraph 3.8 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 3.9 In response to paragraph 3.9 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 3.10 In response to paragraph 3.10 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 3.11 In response to paragraph 3.11 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein

and, on that basis, denies, generally and specifically, each and every allegation contained therein.

3.12 In response to paragraph 3.12 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

3.13 In response to paragraph 3.13 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

3.14 In response to paragraph 3.14 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

3.15 In response to paragraph 3.15 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

3.16 In response to paragraph 3.16 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

IV. CAUSES OF ACTION

- 4.1 In response to paragraph 4.1 of the Complaint, Experian admits that it is a consumer reporting agency within the meaning of the Fair Credit Reporting Act. As to the allegations in paragraph 4.1 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 4.1 of the Complaint.
- 4.2 In response to Paragraph 4.2 of the Complaint, Experian admits that the allegations contained therein appear to set forth a portion of the federal Fair Credit Reporting Act. Experian affirmatively states that the Fair Credit Reporting Act speaks for itself and, on that basis, denies any allegations of paragraph 4.2 inconsistent therewith. Experian further denies, generally and specifically, each and every remaining allegation of Paragraph 4.2 of the Complaint.
- 4.3 In response to Paragraph 4.3 of the complaint, Experian denies, generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 4.3 of the Complaint that relate to the other defendants, Experian does not have knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 4.3 of the Complaint.
- 4.4 In response to Paragraph 4.4 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

- 4.5 In response to Paragraph 4.5 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 4.6 In response to Paragraph 4.6 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 4.7 In response to Paragraph 4.7 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.
- 4.8 In response to Paragraph 4.8 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and, on that basis, denies, generally and specifically, each and every allegation contained therein.

DEFENSES

FIRST DEFENSE

The Complaint herein, and each cause of action thereof, fails to set forth facts sufficient to state a claim upon which relief may be granted against Experian and further fails to state facts sufficient to entitle Plaintiff to the relief sought, or to any other relief whatsoever from Experian.

SECOND DEFENSE

All claims against Experian are barred by the qualified immunity of 15 U.S.C. § 1681h(e).

THIRD DEFENSE

All claims against Experian are barred because all information Experian communicated to any third person regarding Plaintiff was true.

FOURTH DEFENSE

Experian is informed and believes and thereon alleges that any purported damages allegedly suffered by Plaintiff are the results of the acts or omissions of third persons over whom Experian had neither control nor responsibility.

FIFTH DEFENSE

Plaintiff has failed to mitigate his damages.

SIXTH DEFENSE

The Complaint and each claim for relief therein is barred by laches.

SEVENTH DEFENSE

Experian is informed and believes and thereon alleges that all claims for relief in the Complaint herein are barred by the applicable statutes of limitations, including but not limited to 15 U.S.C. § 1681p.

EIGHTH DEFENSE

Plaintiff's alleged damages were not caused by Experian but by an independent intervening cause.

NINTH DEFENSE

Experian did not act with malice or willful intent toward Plaintiff but rather acted in good faith at all times in its dealings with him.

TENTH DEFENSE

In the event that a settlement is reached between Plaintiff and any other party, Experian is entitled to any settlement credits permitted by law.

ELEVENTH DEFENSE

Plaintiff's claims for punitive damages violate the Fourteenth Amendment, the excessive fines clause of the Eighth Amendment, and the Due Process Clause of the United States Constitution.

TWELFTH DEFENSE

Plaintiff's claims for punitive damages violate the laws of Texas, including, but not limited to, Tex. Civ. Prac. & Rem. Code §§ 41.110-41.014.

THIRTEENTH DEFENSE

Experian reserves the right to assert additional defenses at such time and to such extent as warranted by discovery and the factual developments of this case.

WHEREFORE, Defendant Experian Solutions, Inc. prays as follows:

- (1) That Plaintiff take nothing by virtue of the Complaint herein and that this action be dismissed in its entirety;
- (2) For Experian's costs of suit and attorneys' fees herein incurred; and
- (3) For such other and further relief as the Court may deem just and proper.

Dated: June 29, 2015

Respectfully submitted,

/s/ Chase J. Cooper

Chase J. Cooper

Texas Bar No. 24087342

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Attorneys for Defendant

Experian Information Solutions, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of June, 2015, I caused the foregoing to be electronically filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Chase J. Cooper
Chase J. Cooper